

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

STAR AUTO SALES OF BAYSIDE, INC.
(d/b/a STAR TOYOTA OF BAYSIDE), STAR
AUTO SALES OF QUEENS, LLC (d/b/a STAR
SUBARU), STAR HYUNDAI LLC (d/b/a
STAR HYUNDAI), STAR NISSAN, INC. (d/b/a
STAR NISSAN), METRO CHRYSLER
PLYMOUTH INC. (d/b/a STAR CHRYSLER
JEEP DODGE), STAR AUTO SALES OF
QUEENS COUNTY LLC (d/b/a STAR FIAT)
and STAR AUTO SALES OF QUEENS
VILLAGE LLC (d/b/a STAR MITSUBISHI),
Plaintiffs,

-against-

VOYNOW, BAYARD, WHYTE AND COMPANY,
LLP, HUGH WHYTE, RANDALL FRANZEN AND
ROBERT SEIBEL,
Defendants.

Civil Action No.:
1:18-cv-05775 (ERK) (TAM)

**DECLARATION OF MAUREEN P.
FITZGERALD, ESQUIRE**

Maureen P. Fitzgerald, Esquire, pursuant to 28 U.S.C. § 1746 and Local Civil Rule 1.10 of the United States District Courts for the Eastern and Southern Districts of New York, declares as follows:

1. I am a member of the Law Firm of Marshall Dennehey, P.C., counsel of record for Defendants, Voynow, Bayard, Whyte and Company, LLP, Hugh Whyte, Randall Franzen, and Robert Siebel (hereinafter and collectively as “Defendants” or “Voynow”).

2. I submit this declaration in support of Voynow’s Reply and Response to Plaintiffs’ Counter Statement of Material Facts as to Voynow’s Motion for Summary Judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure.

3. Attached to this Declaration are Exhibits numbered 34 through 55 which are documents referenced in either Voynow’s Reply or in Voynow’s Response to Plaintiffs’ Counter Statement of Material Facts:

Exhibit 34 – Star Nissan’s 2014 Form 1120S Corporate Tax Return – Page 1 redacted
(Note that Voynow is filing the redacted first page only of Form 1120S but is supplying the Court with the full unredacted document bates stamped as VOYNOW 004094.0000-004094.0085 as part of the courtesy copy of all filings).

Exhibit 35 - Excerpts from November 28, 2023 deposition of Douglas Sosnowski, CPA.

Exhibit 36 - Excerpts from October 18, 2022 deposition of Dave Kumor.

Exhibit 37 – Voynow’s 2015 workpapers for Plaintiff Star Chrysler.

Exhibit 38 - Voynow’s 2015 workpapers for Plaintiff Star Toyota.

Exhibit 39 – Sample Cover Sheets for Voynow’s Annual Workpapers.

Exhibit 40 - Excerpts from the August 15, 2022 deposition of Michael Koufakis.

Exhibit 41 - Excerpts from the February 15, 2023 deposition of Randall Franzen.

Exhibit 42 - Excerpts from the September 13, 2022 deposition of Steven Koufakis.

Exhibit 43 - Excerpts from the January 31, 2023 deposition of Hugh Whyte.

Exhibit 44 - Excerpts from the February 28, 2023 deposition of Jacqueline Cutillo.

Exhibit 45 - Table of Contents from the Reynolds & Reynolds Accounting User Manual produced in discovery and bates stamped: P002149-P002169.

Exhibit 46 - Excerpts from the October 3, 2022 deposition of David Lombardo.

Exhibit 47 - Excerpts from the September 23, 2022 deposition of John Koufakis, Jr.

Exhibit 48 – June 12, 2017 Email from Robert Seibel produced in discovery and bates stamped STAR00013747.

Exhibit 49 - Excerpts from the December 14, 2023 deposition of Stephen Scherf, CPA.

Exhibit 50 – February 15, 2016 Email from Robert Kirkhope produced in discovery and bates stamped as VOYNOW 018712-018713

Exhibit 51 - Excerpts from the November 9, 2022 deposition of Cody McCabe

Exhibit 52 – Excerpts from the October 4, 2022 deposition of Michael Corrigan.

Exhibit 53 - Excerpts from the November 3, 2022 deposition of Ben Sidor.

Exhibit 54 - Excerpts from the March 22, 2022 Deposition of Shawn McCormack.

Exhibit 55 – Excerpts from the February 1, 2023 30(b)(6) deposition of Plaintiff Star Nissan, Inc. d/b/a Star Nissan.



MAUREEN P. FITZGERALD, ESQUIRE
620 Freedom Business Center, Suite 300
King of Prussia, PA 19406
(610) 354-8270 Fax (610) 354-8299
Email: mpfitzgerald@mdwecg.com
Attorneys for Defendants,
Voynow, Bayard, Whyte and Company, LLC, Hugh
Whyte, Randall Franzen, and Robert Siebel

Dated: June 5, 2024
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